IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.1077 OF 2006
Date of Decision : 24.07.2007

Major Singh .....Appellant

versus

Tej Singh and others .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.Ashish Grover, Advocate for the appellant.
Mr.Jitender Singla, Advocate for the respondents.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below whereby suit of the plaintiff for permanent injunction restraining the defendants from making use of the passage through the land of the plaintiff, was dismissed in first appeal.

It is the case of the defendants that there exists passage in Khasra No.615 from the year 1968 and that the said passage is the only access available to the defendants.

Though the learned trial Court dismissed the suit, but the first appeal of the defendants was accepted and the suit of the plaintiff was dismissed by the learned First Appellate Court . It has been found that there is a *gair mumkin pahi* existing in Khasra No.636/2, 629/2 and 624/2. Thereafter, there is no passage provided to access to the defendants to reach their land comprised in Khasra Nos.612 and 613 except from the western

side of Khasra No.615. It could not be disputed that if the passage is not provided to the defendants from Khasra No.615, the defendants have no other access to reach their land.

Therefore, the finding recorded by that learned First Appellate Court cannot be said to be suffering from any patent illegality or irregularity which may give rise to any substantial question of law for consideration of this Court in second appeal.

The appeal stands dismissed.

24-07-2007 (HEMANT GUPTA)
*mohinder JUDGE